

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.14742 OF 2011

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the unsuccessful applicant in O.A.No.284 of 2008 on the file of the Central Administrative Tribunal, Hyderabad Bench. The said O.A. was dismissed by the Tribunal *vide* order dated 17.08.2010. Review Application No.41 of 2010 filed by the petitioner/applicant seeking review of the said order was also dismissed by the Tribunal *vide* order dated 02.11.2010. Aggrieved thereby, he is before this Court.

The issue raised by the petitioner/applicant in the O.A. was with regard to the penalty imposed upon him in the disciplinary proceedings initiated against him while he was discharging his duties as an Inspector of Central Excise, Divisional Preventive Unit, Hyderabad-II Division. Initially, the disciplinary authority passed order dated 16.03.2005 imposing a penalty of reduction of the petitioner/applicant's pay by one stage from Rs.8,300/- to Rs.8,100/-, in the timescale of pay of Rs.6500-200-10500, for a period of six months with effect from 16.03.2005 with cumulative effect. In appeal, the said penalty was enhanced by modifying it to that of reduction of pay by one stage from Rs.8,300/- to Rs.8,100/- with cumulative effect for a period of one year from 16.03.2005. Thereafter, the revisionary authority, *vide* order dated 20.02.2008, while maintaining the reduction of pay by one stage from Rs.8,300/- to Rs.8,100/- for a period of one year with effect from 16.03.2005, however ordered that such reduction would have no cumulative effect. The Tribunal opined that it was not a fit case for intervention and accordingly dismissed the O.A.

While so, we are now informed that the other employees who were charged in relation to the very same irregularities were also subjected to similar punishment orders but when the same were assailed, the Full Bench of the Tribunal set aside the punishments imposed upon them *vide* order dated 08.02.2012 in O.A.Nos.107 and 127 of 2008 and 229 of 2009. The departmental proceedings which were the basis for imposition of penalties were held to have been conducted in violation of the rules and procedure and also the principles of natural justice. The Full Bench also found that the findings of the Enquiry Officer were based on no evidence.

In the light of this development, whereby others who were co-accused along with the petitioner/applicant were given relief by the Full Bench of the Tribunal on the strength of the finding that the departmental proceedings were not conducted in accordance with prescribed procedure, and as we are informed that the evidence adduced in all the enquiries was the same, the benefit of the findings of the Full Bench of the Tribunal in the order dated 08.02.2012 must necessarily be extended to the petitioner/applicant also.

On this ground, the writ petition is allowed setting aside the order passed by the Tribunal in the O.A. as well as in the Review Application. In consequence, the order dated 16.03.2005 passed by the disciplinary authority, the order dated 06.07.2006 of the appellate authority and the order dated 20.02.2008 passed by the revisionary authority are set aside.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J